

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PHILIP BERRYMAN,

Petitioner,

Case Number: 07-14782

Honorable George Caram Steeh

v.

DEBRA SCUTT,

Respondent.

OPINION AND ORDER DENYING PETITIONER'S
MOTION FOR THE COURT'S RECUSAL

This matter is before the Court on a motion in which Petitioner Philip Wayne Berryman once again seeks relief from the Court. Petitioner is now requesting that the Court recuse itself and reassign the case, as it is Petitioner's contention that the Court has displayed bias and prejudice in its Orders.

To state a claim that a judge is biased, a defendant must show either actual bias or the appearance of bias creating a conclusive presumption of actual bias. *United States v. Lowe*, 106 F. 3d 1498, 1504 (6th Cir. 1997). Adverse rulings are not themselves sufficient to establish bias or prejudice which will disqualify a judge. *See Hence v. Smith*, 49 F. Supp. 2d 547, 549 (E.D. Mich. 1999). A habeas petitioner's "unsupported accusations" and "unfounded surmise" of bias on the part of a federal judge presiding over his or her habeas petition are insufficient to establish grounds for disqualification of that judge from presiding over the case. *See Bates v. Grant*, 98 Fed. Appx. 11, 15 (1st Cir. 2004).

The Court will deny Petitioner's request to replace the judge of record in this case, because he has failed to show that this Court "harbors any personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding . . .," as required to disqualify a federal judge pursuant to 28 U.S.C. § 455(b)(1). *Hence*, 49 F.Supp. at 550. Petitioner has merely alleged that this Court ruled adversely against him. Such adverse rulings are insufficient to establish bias or prejudice on the part of a judge. Because Petitioner has not shown evidence of personal bias on the part of this Court, Petitioner's motion is denied. *See McGann v. Kelly*, 891 F. Supp. 128, 137 (S.D.N.Y. 1995).

Therefore, upon consideration of the Court, **IT IS HEREBY ORDERED** that Petitioner's motion is **DENIED**.

IT IS SO ORDERED.

Dated: June 9, 2008

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
June 9, 2008, by electronic and/or ordinary mail.

S/Josephine Chaffee
Deputy Clerk